

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

KEVIN G. SMITH,)	4:09CV3175
)	
Plaintiff,)	
)	
v.)	MEMORANDUM
)	AND ORDER
MATTHEW HOBENSEE, et, al.,)	
)	
Defendant)	

This matter is before the court on Plaintiff's Notice of Appeal. (Filing No. [27](#).) On October 19, 2009, the court dismissed Plaintiff's claims without prejudice and entered Judgment against him. (Filing Nos. [9](#) and [10](#).) Plaintiff appealed. (Filing No. [11](#).) On November 24, 2009, the court permitted Plaintiff to appeal in forma pauperis. (Filing No. [15](#).)

On March 30, 2010, the Eighth Circuit Court of Appeals summarily affirmed this court's Judgment. (Filing No. [19](#).) The formal Mandate was issued on May 17, 2010. (Filing No. [26](#).) Three days later, Plaintiff filed the Notice of Appeal currently before the court. (Filing No. [27](#).)

Because the court has already granted Plaintiff leave to appeal IFP and because the Eighth Circuit has already dismissed Plaintiff's appeal, Plaintiff's Notice of Appeal is moot. The Clerk of the court shall not process the appeal to the Court of Appeals.

IT IS THEREFORE ORDERED that:

1. The Clerk of the court shall not process the appeal to the Court of Appeals.

2. The Clerk of the court shall provide the Court of Appeals with a copy of this Memorandum and Order.

DATED this 15th day of July, 2010.

BY THE COURT:

Richard G. Kopf
United States District Judge

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